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Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

30 April 2013

Email: baselcommittee@bis.org

Dear Sirs/Madam,

Re: Enhanced Prudential Standards and Early Remediation Requirements for Foreign Banking Organisations and Foreign Nonbank Financial Companies

The International Banking Federation ('IBFed') is the representative body for national and international banking federations from leading financial nations around the world. Its membership includes the American Bankers Association, the Australian Bankers' Association, the Canadian Bankers Association, the European Banking Federation, the Japanese Bankers' Association, the China Banking Association, the Indian Banks' Association, the Korean Federation of Banks, the Association of Russian Banks and the Banking Association South Africa. This worldwide reach enables the Federation to function as the key international forum for considering legislative, regulatory and other issues of interest to the banking industry and to our customers.

The IBFed appreciates the opportunity to comment on the proposed rules (Proposal) published by the Board of Governors of the Federal Reserve System (the Board) that would implement the enhanced prudential standards required under Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act or DFA) and the early remediation requirements required to be established under Section 166 DFA for foreign banking organisations (FBOs) and foreign nonbank financial companies supervised by the Board.¹ We note that some IBFed Members will individually submit responses highlighting more detailed concerns, which we urge you to take into full consideration. In addition, the IBFed broadly supports the detailed comment letters submitted by the Institute of International Bankers, as well as the thematic comment letters submitted by the Institute of International Finance and the Global Financial Markets Association, which reflect similar concerns described in this letter.

The IBFed acknowledges and supports the US authorities' efforts to enhance financial stability through robust supervision and regulation. At the same time, the IBFed wishes to stress the necessity to balance the development of enhanced bank supervisory standards against both the urgent task of promoting US and International economic recovery and growth and the benefit of

¹ See 77 *Fed. Reg.* 76632 (Dec. 28, 2012).

harmonising and coordinating the development and implementation of the complex financial reform effort currently underway, including reforms proposed by the Financial Stability Board (FSB) and the Basel Committee on Banking Supervision.

In this respect, the IBFed has serious policy concerns regarding the Proposal and its negative impact on cross-border banking activities. We urge the Board to reconsider the approach in the Proposal, and instead, continue its traditional leading role and laudable work with other international financial supervisors to promote international cooperation among home and host country regulators in establishing sound supervisory principles and effective global resolution consistent with international comity.

The IBFed considers the Proposal to complicate international regulatory coordination. The IBFed strongly believes that, in line with the G20 regulatory reform agenda and the robust efforts of the FSB and international standard-setting bodies to apply it on a global scale, cross-border coordination and cooperation is essential for the effective regulation and supervision of banks with international activities. Thus, the approach taken by the US Congress in statute (comparable home-country standards) would be in line with the G20 agenda and create incentives for home-country supervisors to coordinate and cooperate in the development of internationally harmonised standards for all banking organisations with an international presence. While national regulators may implement these international standards somewhat differently, they still could, and should be recognised by host-country regulators if comparable to their own requirements. In contrast, the approach taken by the Board in the Proposal to ring-fence FBOs' assets, liquidity, and capital in the US, instead of giving due regard to their home-country prudential requirements (as Section 165 DFA requires), does not favour such cooperation and coordination, and is inconsistent with the development of global resolution regimes and strategies. In fact, the development of such regimes - that would always take into account the diversity of business models - could effectively lead to achieving an orderly resolution mechanism with minimal risk to taxpayers.

The risk that other countries will adopt measures in response to the Proposal should also not be overlooked. Such actions would have adverse implications for all global banks and their customers, including US headquartered banks conducting business abroad, thereby creating a trend that would only lead to further fragmentation of global financial services regulation. This would also lead to more fragmented and concentrated financial markets in the US and elsewhere, with all the negative effects this would have on the affected economies, including their financial stability.

Substantial steps have already been taken by financial regulators in G20 countries to increase banking organisations' financial resiliency and reduce the likelihood of failure of systemically important financial institutions as well as enhance the effectiveness of cross-border resolution.² These efforts demonstrate growing confidence in the efficacy of building coordinated supervisory and resolution regimes, and would be undermined by the Board's approach in the Proposal.

The Board's historical approach and statutory direction in DFA section 165 to focus on systemically important banking organisations at the consolidated level, to take into account the FBOs home-country rules and whether those rules are subject to comparable standards on a consolidated basis, to respect the principle of national treatment and equality of competitive opportunity, and to follow a more tailored framework that would reflect actual risks to financial stability should inform its reconsideration of the Proposal.


In light of the importance of financial intermediation to the health and growth of the global economy, any supervisory regime predicated on artificial restrictions on the flow of capital and liquidity should face a high hurdle of clearly articulated necessity and consensus support. It is worth mentioning

² See *Financial Stability Board, Thematic Review on Resolution Regimes: Peer Review Report 8* (April 11, 2013).

that cautionary concern on the Proposal comes not only from the foreign banking community, but also from broader representatives of the US banking industry and members of the US Congress. Similar arguments were also raised by the Chairman Emeritus of the House Committee on Financial Services, Congressman Spencer Bachus, in his letter of 14 March 2013 to the Board³.

We would hope that you find our comments and concerns constructive and would like to thank you in advance for taking them into consideration for your future work on the final rules that would implement Sections 165 and 166 of the Dodd-Frank Act.

Yours sincerely,
Mrs Sally Scutt

A handwritten signature in black ink, reading "Sally Scutt". The signature is fluid and cursive, with a large, stylized "S" at the beginning and a long, sweeping underline.

Managing Director
International Banking Federation

³ The letter can be found in the link: http://www.iib.org/associations/6316/files/Bachus_Letter_to_Bernanke.pdf